

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEONARD HIGGINS,

Plaintiff,

v.

SPX CORPORATION,

Defendant.

Case No. 1:05-CV-846

Hon. Richard Alan Enslen

ORDER

Plaintiff Leonard Higgins has moved this Court to partially lift the Stay Order issued on April 18, 2006, which stayed the progress of this foreign arbitration enforcement suit until a foreign suit seeking to nullify the arbitration is finally decided. Defendant SPX Corporation opposes the relief. Oral argument is unnecessary in light of the issues presented.

Plaintiff's Motion asks that this Court only lift the stay as to portions of the arbitration award which are uncontested in the pending Brazilian appeal of the lower Brazilian court's denial of a petition for nullification of the arbitration award. The immediate problem with this argument is that, according to SPX Corporation, which controls the appeal, it is appealing the whole of the decision and seeks to nullify the entire arbitration award. (Decl. of Evaldo Pereira Ramos ¶¶ 4-6.)

Furthermore, read in its entirety, Plaintiff's Motion to Partially Lift the Stay is functionally a request for reconsideration of the Court's Stay Order and Opinion, which determined that this matter would be stayed until a final determination on appeal was made by the Brazilian courts. (*See* Op. 8-9 & n.8.) Pursuant to Western District of Michigan Local Civil Rule 7.4(a), reconsideration is proper only when the movant "demonstrate[s] a palpable defect by which the Court and the parties have been misled . . . [and] that a different disposition must result from the correction thereof."

Plaintiff's Motion fails this standard. *See Wrench LLC v. Taco Bell Corp.*, 36 F. Supp. 2d 787, 789 (W.D. Mich. 1998). Likewise, the equities, including the interests of the parties and the Court in comity and in avoidance of piecemeal litigation, do not presently recommend any modification of the stay. *See also Phillip Diniaco & Sons, Inc. v. Max J. Colvin & Sons Trucking, Inc.*, 1988 WL 137336, at *2 (6th Cir. 1988) (unpublished decision).

THEREFORE, IT IS HEREBY ORDERED that Plaintiff Leonard Higgins' Motion to Partially Lift the Stay (Dkt. No. 28) is **DENIED**.

DATED in Kalamazoo, MI:
May 14, 2007

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE